

# ARKANSAS COURT OF APPEALS

DIVISION I  
No. CACR08-1116

JOHN FITZPATRICK

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 1, 2009

APPEAL FROM THE CLEBURNE  
COUNTY CIRCUIT COURT  
[NO. CR-2006-149]

HONORABLE JOHN DAN KEMP,  
JUDGE

APPEAL DISMISSED

**JOHN MAUZY PITTMAN, Judge**

This is an appeal from a judgment entered upon a guilty plea in a driving-while-intoxicated case after the trial court found that the arresting officer had reasonable cause to stop appellant and that the evidence of appellant's intoxication was therefore admissible. We must dismiss for lack of jurisdiction.

A defendant ordinarily does not have the right to appeal from a guilty plea. However, Ark. R. Crim. P. 24.3(b) permits review following a conditional guilty plea solely with respect to the denial of a motion to suppress illegally-obtained evidence. *Beulah v. State*, 352 Ark. 472, 101 S.W.3d 802 (2003). The rule provides that:

With the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgment, to review of an adverse determination of a pretrial motion to suppress seized evidence or a custodial

statement. If the defendant prevails on appeal, the defendant shall be allowed to withdraw the conditional plea.

The Rule has been strictly construed; if the defendant fails to reserve the right to appeal in writing, the appellate court acquires no jurisdiction to hear the appeal. *Burress v. State*, 321 Ark. 329, 902 S.W.2d 225 (1995). Because no such writing appears in this case, we lack jurisdiction and must dismiss the appeal.

Appeal dismissed.

GLADWIN and HENRY, JJ., agree.